

DEPARTMENT OF THE ARMY
Wilmington District, Corps of Engineers
Post Office Box 1890
Wilmington, North Carolina 28402-1890

Action ID No. 200301262

March 25, 2004

PUBLIC NOTICE - MODIFICATION

Tri-Coast Properties, 1508 Military Cutoff Road, Suite 302, Wilmington, North Carolina 28403, originally applied for a Department of the Army (DA) permit TO AUTHORIZE THE DISCHARGE OF APPROXIMATELY 32,060 CUBIC YARDS OF FILL MATERIAL INTO 6.878 ACRES OF JURISDICTIONAL WETLANDS TO FACILITATE THE CONSTRUCTION OF 63 OF 144 LOTS AND ASSOCIATED INFRASTRUCTURE IN A SINGLE-FAMILY HOME SUBDIVISION located north of Ocean Boulevard, west of Pinfish Lane, in the headwaters of an unnamed tributary to the Cape Fear River, in the Wilmington Beach area of Carolina Beach, New Hanover County, North Carolina. Attached is a modification of the original permit application. The applicant has reduced the proposed impacts to 1.89 acres through the loss of 24 lots, reduced fill on each remaining lot to that necessary for the building pad and drive access, and the narrowing of streets to 30 feet. The current application seeks a DA permit TO AUTHORIZE THE DISCHARGE OF FILL MATERIAL INTO 1.89 ACRES OF JURISDICTIONAL WETLANDS TO FACILITATE THE CONSTRUCTION OF 39 OF 120 LOTS AND ASSOCIATED INFRASTRUCTURE IN A SINGLE-FAMILY HOME SUBDIVISION LOCATED NORTH OF OCEAN BOULEVARD, WEST OF PINFISH LANE, IN THE HEADWATERS OF AN UNNAMED TRIBUTARY TO THE CAPE FEAR RIVER, IN THE WILMINGTON BEACH AREA OF CAROLINA BEACH, NEW HANOVER COUNTY, NORTH CAROLINA.

The purpose of the proposed work is to construct housing units and associated infrastructure. Plans showing the work are included with this public notice.

The jurisdictional wetlands within the project site consist of pine flat woods common to New Hanover County and southeastern North Carolina. Perimeter ditches were constructed around this area historically and serve as connectors to the unnamed tributary to the Cape Fear River located south of the intersection between Dow Road and Ocean Boulevard. Vegetation in this area is comprised of Pinus taeda and P. serotina in the canopy and a combination of Ilex glabra, Lyonia lucida, and Cyrilla racemiflora in the shrub layer.

The applicant has determined that the proposed work is consistent with the North Carolina Coastal Zone Management Plan and has submitted this determination to the North Carolina Division of Coastal Management (NCDCM) for their review and concurrence. This proposal shall be reviewed for the applicability of other actions by North Carolina agencies such as:

- a. The issuance of a Water Quality Certification under Section 401 of the Clean Water Act by the North Carolina Division of Water Quality (NCDWQ).
- b. The issuance of a permit to dredge and/or fill under North Carolina General Statute 113-229 by the North Carolina Division of Coastal Management (NCDCM).
- c. The issuance of a permit under the North Carolina Coastal Area Management Act (CAMA) by the North Carolina Division of Coastal Management (NCDCM) or their delegates.
- d. The approval of an Erosion and Sedimentation Control Plan by the Land Quality Section, North Carolina Division of Land Resources (NCDLR), pursuant to the State Sedimentation Pollution Control Act of 1973 (NC G.S. 113 A-50-66).

The requested Department of the Army (DA) permit will be denied if any required State or local authorization and/or certification are denied. No DA permit will be issued until a State coordinated viewpoint is received and reviewed by this agency. Recipients of this notice are encouraged to furnish comments on factors of concern represented by the above agencies directly to the respective agency, with a copy furnished to the Corps of Engineers.

This notice initiates the Essential Fish Habitat (EFH) consultation requirements of the Magnuson-Stevens Fishery Conservation and Management Act. The District Engineer's initial determination is that the proposed project would not adversely impact EFH or associated fisheries managed by the South Atlantic or Mid Atlantic Fishery Management Councils or the National Marine Fisheries Service.

This application is being considered pursuant to Section 404 of the Clean Water Act (33 U.S.C. 1344). Any person may request, in writing within the comment period specified in the notice, that a public hearing be held to consider this application. Requests for public hearing shall state, with particularity, the reasons for holding a public hearing.

The District Engineer has consulted the latest published version of the National Register of Historic Places for the presence or absence of registered properties, or properties listed as being eligible for inclusion therein, and this site is not registered property or property listed as being eligible for inclusion in the Register. Consultation of the National Register is the extent of cultural resource investigations by the District Engineer, and he is otherwise unaware of the presence of such resources. Presently, unknown archeological, scientific, prehistorical, or historical data may be lost or destroyed by work under the requested permit.

The District Engineer, based on available information, is not aware that the proposed activity will affect species, or their critical habitat, designated as endangered or threatened pursuant to the Endangered Species Act of 1973.

The decision, whether to issue a permit, will be based on an evaluation of the probable impacts, including cumulative impacts, of the proposed activity and its intended use on the public

interest. Evaluation of the probable impacts that the proposed activity may have on the public interest requires a careful weighing of all those factors that become relevant in each particular case. The benefits that may be expected to accrue from the proposal must be balanced against its foreseeable detriments. The decision whether to authorize a proposal, and if so the conditions under which it will be allowed to occur, are therefore decided by the outcome of the general balancing process. That decision should reflect the national concern for both protection and use of important resources. All factors that may be relevant to the proposal must be considered including the cumulative effects of it. Among those are conservation, economics, aesthetics, general environmental concerns, wetlands, cultural values, fish and wildlife values, flood hazards and flood plain values (according to Executive Order 11988), land use, navigation, shore erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, considerations of property ownership, and, in general, the needs and welfare of the people. For activities involving the placement of dredged or fill materials in waters of the United States, a permit will be denied if the discharge that would be authorized would not comply with the Environmental Protection Agency's 404(b)(1) guidelines. Subject to the preceding sentence and any other applicable guidelines or criteria, a permit will be granted unless the District Engineer decides that it would be contrary to the public interest.

The Corps of Engineers is soliciting comments from the public; Federal, State and local agencies and officials; Indian Tribes and other interested parties to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps of Engineers to decide whether to issue, modify, condition or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment (EA) and/or an Environmental Impact Statement (EIS) pursuant to the National Environmental Policy Act (NEPA). Comments are also used to decide the need for a public hearing and to decide the public interest of the proposed activity.

Generally, the decision whether to issue this Department of the Army (DA) permit will not be made until the North Carolina Division of Water Quality (NCDWQ) issues, denies, or waives State certification required by Section 401 of the Clean Water Act. The NCDWQ considers whether the proposed activity will comply with Sections 301, 302, 306, and 307 of the Clean Water Act. The application and this public notice for the Department of the Army (DA) permit serves as application to the NCDWQ for certification.

Additional information regarding the Clean Water Act certification may be reviewed at the offices of the Environmental Operations Section, North Carolina Division of Water Quality (NCDWQ), Salisbury Street, Archdale Building, Raleigh, North Carolina. Copies of such materials will be furnished to any person requesting copies upon payment of reproduction costs.

All persons wanting to make comments regarding the application for Clean Water Act certification should do so in writing delivered to the North Carolina Division of Water Quality (NCDWQ), 1650 Mail Service Center, Raleigh, North Carolina 27699-1650, on or before

January 30, 2004, Attention: Mr. John Dorney.

Written comments pertinent to the proposed work, as outlined above, will be received in this office, Attention: Ms. Angie Pennock, until 4:15 p.m., April 7, 2004, or telephone (910) 251-4611.



Lots and/or driveways with wetland impacts

Street fill (0.60 acres)

Wetland/upland boundary

Preserved wetlands (2.90 acres)

Preserved uplands (0.36 acres)

Lot and driveway fill totals 1.14 acres

Total proposed fill is 1.89 acres

Scale 1"=200'

Land Management Group, Inc.
Environmental Consultants
Wilmington, N.C.
February 2004

Site Plan
(revised 2/24/03)

Wilmington Beach Subdivision